

SUPREME COURT : NEW YORK COUNTY
SPECIAL TERM PART I

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JEROME H. BARR and CITIBANK, N.A., as
Executors of the Will of Milton Kaufman,
Plaintiffs,-

-against-

HYMAN RAFFE,

Defendant.

Index No. 16792-13

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HYMAN RAFFE,

Third Party Plaintiff,

-against-

PUCCHINI CLOTHES, LTD., EUGENE DANN, and
ROBERT SORRENTINO,

Third Party Defendants.

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Donald Diamond, Special Referee.

This application for relief pursuant to CPLR 5015 is denied without prejudice to a renewal of the application upon compliance with the pre-motion procedures established this action.

Immediately after my appointment to supervise disclosure and to report on disputed issues of fact which might be raised in motions, a pre-motion procedure was established

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whereby all motions for leave to re-argue, renew or for relief that requires that the motion be made on notice to a Justice of this court under the provisions of CPLR 2221 could be brought on only by order to show cause signed by the Judge who must pass upon the application.

With respect to all other motions, the movant is required to arrange for a pre-motion conference for the purpose of establishing a procedure for the resolution of any possible disputed issue of fact that might be raised in connection with the motion.

The procedure consists of the movant calling all other parties entitled to receive notice of the making of the motion or their attorneys and arrange for a mutually convenient date and time to appear for the conference and notify me of the date and time agreed upon by the parties.

If there is any difficulty in arranging for a mutually convenient time and date, the prospective movant is to telephone me and I would establish the time and date for the conference.

Parenthetically, no party seeking a pre-motion conference has had any difficulty in scheduling the date and time for the conference since the establishment of the rule.

However, the defendant pro se Hyman Raffé and George Sassower, Esq. have opposed conducting any pre-motion conference. According to the moving affidavit, a prior application for an order to show cause on a "renewal" motion was denied by a Justice of this court and it appears that the relief sought pursuant to CPLR 5015 is similar to that application with defendant Raffé using the same papers that were submitted on the denied application.

The pro se defendant and George Sassower, Esq. have opposed the holding of a pre-motion conference since the rule was established. The objections have been couched in vague and conclusory allegation, with diffused objections to some form of ephemeral right to bring on motions. In no instance have they ever made a single factual showing that a substantial right is being prejudiced by the holding of a conference.

Since the establishment of the rule, there has been a plethora of litigation in the Federal Courts, Appellate Division and this court where the movant has sued several Justices of this Court and myself. After one abortive lawsuit was brought, a successive action was brought against the successful defendants as well as the Attorney General of the State of New York and the Assistant Attorney General who represented the public officials sued by movant.

An order was entered on January 25, 1983, made by Mr. Justice Edward J. Greenfield enjoining George Sassower from representing the third party defendant Puccini Clothes, Ltd., as an attorney and on February 4, 1982, an order was made by Mr. Justice Thomas V. Sinclair granting the motion of the third party defendants to disqualify George Sassower from representing the defendant Raffe.

In the proceedings before me George Sassower has ignored the order removing him as attorney and it is apparent that the real objection to the holding of a pre-motion conference, a procedure used in the Federal and other courts, is to conceal and obscure his continuous representation of Mr. Raffe and that he is acting as his attorney with respect to the making of motions in the proceedings where he has been removed.

The totality of circumstances all point to the fact that Mr. Sassower continues to represent Mr. Raffe notwithstanding the order removing him.

George Sassower maintains his office for the practice of law at the same business address used by the defendant pro se with both sharing the same business telephone number.

The motion papers used on the making of this motion contains a supporting affirmation by George Sassower dated August 24, 1984, long after he was barred from representing the movant.

The physical appearance of the papers submitted by the defendant pro se bearing a striking resemblance to those papers clearly identifiable to George Sassower and are made on the same type of paper with the same type style and formatting.

In addition to the physical appearance, the draftsmanship of the motion papers, language and polemic style bear such remarkable similarity that they are clearly authored by a single hand.

At each instance where the defendant pro se was required to appear before me, Mr. Sassower appeared indicating that he continues having ties with the defendant pro se and advocating the contentions of the pro se defendant with utter disregard of the order removing him from acting as attorney for the pro se litigant.

During the deposition of the defendant pro se, Mr. Sassower was removed from the room. On that occasion, his daughter Elena Ruth Sassower remained as an observer during the examination before trial of the defendant pro se. His daughter also served the moving papers for the making of this motion.

After a brief recess in the disclosure proceeding, Mr. Sassower returned to the room and it was necessary to have him escorted out of the courthouse. Again, his daughter remained as an observer.

On another occasion, I observed his daughter eavesdropping at my door during the holding of a conference with the attorneys in this case.

During the deposition of the defendant pro se, he invoked his constitutional privilege to refuse to answer questions about his activities as a pro se litigator leading to the inference that if he had answered the questions, the answers would have established that George Sassower continues to represent the defendant pro se as an attorney although he is barred from such activity.

None of these activities are consistent with the role of an attorney after the making of an order removing the lawyer from representing parties to this lawsuit.

On September 18, 1984, Mr. Sassower appeared before me advised me not to schedule the continued disclosure of the pro se defendant because Mr. Raffe would not appear at the time and date previously fixed. And, the defendant Raffe did default in the furnishing of disclosure.

Mr. Sassower's continued participation in these proceedings violate the orders of this court barring him from acting as an attorney for parties to this lawsuit and I am constrained to view the role of his daughter as being an alter ego whereby Mr. Sassower continues to control the litigation for the pro se defendant notwithstanding his removal by order of this court as well as his physical removal from the courthouse.

To give effect to the orders removing George Sassower as attorney, both he and his daughter Elena Ruth Sassower are barred from attending all further proceedings conducted before me in these actions and proceedings where George Sassower has been removed as attorney.

Dated: September 26, 1984.

Donald Diamond
Special Referee

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COUNTY CLERK'S OFFICE
NEW YORK